



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20549

CA 2-032

400277

B-178601

December 13, 1973

Mr. Norman Redlich, Corporation Counsel
Law Department
The City of New York
Municipal Building
New York, New York 10007

Dear Mr. Redlich:

Reference is made to your letter, dated June 20, 1973, requesting reconsideration of your request for release of a lien in favor of the United States on property owned by the city of New York, known as 258-262 Siegel Street, Brooklyn, New York.

As you were previously informed by letter dated June 4, 1973, B-178601, our authority in this matter is confined to the procedure set forth in section 2410(e) of title 28, United States Code, and, since the Federal Housing Administration had not furnished the necessary report to the Comptroller General, these procedural requirements had not been met. Furthermore, we pointed out that even if such procedural requirements could be met, the record showed that the applicant in this case was the owner of the property, rather than one that "has a lien" on the property as stipulated in the statute. Therefore, your request was denied since your application did not meet the statutory requirements.

You now contend that the term "lien" as used in 28 U.S.C. 2410(e) does not lose its basic characteristic because it was foreclosed, since the foreclosure was ineffective vis-a-vis the interest of the United States. In other words, it is your view that as between the United States and the city of New York, the city still "has a lien" rather than fee ownership since it failed to serve the Government in its foreclosure action as required by 28 U.S.C. 2410. However, we are not persuaded by this argument and have consistently construed the statute otherwise.

When a tax lien is foreclosed by an action "in rem," the deed executed pursuant to authority of section 1136, Real Property Tax Law, McKinney's Consolidated Laws of New York, Annotated, conveys an estate in fee simple. However, the property in question is still subject to a lien in favor of the United States for failure to comply with the

BEST DOCUMENT AVAILABLE

716334

B-178601

provisions of 28 U.S.C. 2410(b). Therefore, the status of the city as a lien holder terminated upon its taking title, and it is now simply the owner of the property subject to a lien in favor of the United States.

For this reason, our decision of June 4, 1973, denying your request for release of the lien in question is affirmed.

Sincerely yours,

R.F.KELLER

Deputy Comptroller General
of the United States

BEST DOCUMENT AVAILABLE